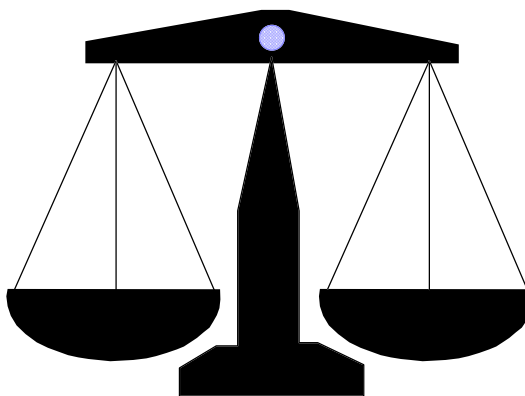


SIGNIFICANT COURT CASES



(JULY 1, 2001 THROUGH JUNE 30, 2002)

[Waste Management of Indiana, LLC v. Indiana Department of Revenue](#)

764 N.E.2d 318 (Ind. Tax, 2002)

Waste Management challenged the department's denial of a proportional claim for refund pursuant to IC 6-6-4.1-4(d) and 6-6-4.1-5(d) on Indiana Motor Carrier Fuel Tax and Motor Carrier Surcharge Tax paid by Waste Management on fuel consumed in Indiana for the operation of equipment mounted on its vehicles. The department argued that in *Bulkmatic II*, 691 N.E.2d 1371 (Ind. Tax Ct. 1998) and *Bulkmatic III*, 715 N.E.2d 26 (Ind. Tax Ct. 1999), the exemption was ruled invalid by the Tax Court's ruling that the statutory language limiting the exemption to fuel used "in Indiana" was unconstitutional. The Tax Court concluded that Waste Management was entitled to the proportional exemption according to the statute and that every code provision is severable absent an exception that would render the statute contrary to the Legislature's intent if read without the invalid features. ." The department has petitioned the Indiana Supreme Court for review of this matter; the Petition is pending as of the date of this writing.

[State of Indiana, Indiana Department of Revenue v. Dante Adams](#)

762 N.E.2d 728 (Ind. 2002)

Adams sought to have cocaine illegally seized during a criminal search suppressed from a Controlled Substance Excise Tax ("CSET") assessment proceeding of the department. The Indiana Supreme Court concluded that the exclusionary rule, pursuant to the Fourth Amendment of the U.S. Constitution, is intended to deter illegal searches or seizures and should not apply to CSET assessment proceedings. Applying the exclusionary rule to CSET assessment proceedings would not serve to deter illegal searches or seizures, since the primary concern of such searches and seizures is criminal prosecution. Although CSET has some quasi-criminal aspects, in that it taxes narcotics, it stems from the State's power to tax and not from the State's power to regulate. Further, applying the exclusionary rule to CSET proceedings would frustrate the State's power to tax by precluding probative evidence and frustrate expedited CSET proceedings by requiring complicated legal determinations.

[Chrysler Financial Co., LLC v. Indiana Department of State Revenue](#)

761 N.E.2d 909 (Ind. Tax, 2002)

Chrysler disputed the department's denial of Chrysler's assignee rights of a refund claim for state sales tax pursuant to Indiana's "Bad Debt" statute, IC 6-2.5-6-9. Chrysler's claim was based on the assignment of car financing installment contracts by dealers to Chrysler, which were later written off as uncollectible by Chrysler and on which Chrysler had paid the dealer the entire amount of the contract price, including sales tax paid by the dealer to the department. The Court ruled that since the Bad Debt statute did not specifically exclude the assignability of contract rights, statutory rights and causes of action, common law was applicable and therefore such rights are assignable and "the assignee stands in the shoes of the assignor." The department has petitioned the Indiana Supreme Court for review of this matter; the Petition is pending as of the date of this writing.

Interstate Warehousing, Inc. v. Indiana Department of State Revenue

764 N.E.2d 313 (Ind. Tax, 2002)

Interstate challenged the department's denial of Interstate's refund claim, pursuant to IC 6-2.5-5-5.1 (the consumption exemption), for sales tax paid on electricity purchased by Interstate and used for the operation of refrigeration equipment in providing refrigerated storage for its customers. The Court concluded that Interstate was entitled to the consumption exemption because Interstate consumed the electricity in the direct production of other tangible personal property when using the electricity to chill ammonia. The chilling of the ammonia placed it in a form substantially different from that in which it was acquired and thus created a new and marketable good. The Indiana Supreme Court granted the department's Petition for Review of this case; that review has not been completed as of this writing.

Max E. Anderson, d.b.a. M.X. Express v. Indiana Department of State Revenue

758 N.E.2d 597 (Ind. Tax, 2001)

M.X. Express challenged the denial of a refund by the department on Indiana's Motor Carrier Fuel Tax ("MCFT") paid on the proportion of fuel consumed on Indiana toll roads. M. X. Express asserted that the MCFT violated the Commerce Clause of the U.S. Constitution because the tax is not fairly related to the services provided by the State since, according to M.X. Express, none of the taxes collected are used on the toll roads. The Court concluded that the tax was assessed proportionately, based on miles driven in the State, and "the taxpayer is shouldering its fair share of supporting the State's provision of police and fire protection, the benefit of a trained work force, and the advantages of civilized society." The tax is compulsory and "entitles the taxpayer to receive nothing in return other than the rights of government which are enjoyed by all citizens alike." "By assessing the MCFT for the fuel that M.X. Express consumes on Indiana highways, the State is merely requiring M.X. Express to assume its fair share of the State tax burden."

State of Indiana ex rel. Indiana Department of Revenue v. Timothy L. Deaton and Marie E. Deaton

755 N.E.2d 568 (Ind., 2001)

The Deatons challenged the jurisdiction of a court to enforce a statutory judgment lien pursuant to IC 6-8.1-8-2(e) for income tax not paid by the Deatons. The Deatons asserted that the department must file a suit and obtain a judgment in court before such court has jurisdiction. Therefore, a statutory judgment lien did not give a court jurisdiction to enforce a final determination of the department. The Supreme Court ruled that unless and until a final determination is appealed to the Tax Court, the final determination is the equivalent of a judgment, and when the tax warrant that embodies that final determination is recorded as a judgment lien in the judgment record of a county court, the warrant becomes a judgment of that court, and such court acquires jurisdiction for the limited purpose of enforcing the judgment. IC 6-8.1-8-8 authorizes summary collection proceedings without further judicial action because once a tax warrant becomes a judgment lien the day for disputing the tax is over and the matter has progressed to the collection stage.

Hi-Way Dispatch, Inc. v. Indiana Department of State Revenue

756 N.E.2d 587 (Ind. Tax, 2001)

Hi-Way Dispatch disputed the department's ruling that fuel consumed during "idle time" was subject to Indiana Motor Fuel Tax, IC 6-6-4.1-4, which is imposed on the "consumption of motor fuel by a carrier in its operations" on the state's highways. Hi-Way Dispatch contended that only consumption of motor fuels used in "propulsion" of a qualified motor vehicle was subject to the tax pursuant to the International Fuel Tax Agreement (IFTA), Article III(A). Hi-Way Dispatch further disputed the department's denial of full credit for tax-paid on fuel purchases in jurisdictions that are not members of IFTA. The Court concluded that IFTA provides for the administration of the motor fuel taxes, while the Indiana statutes provide the scope of the tax and any related exemptions. As such, IFTA cannot provide an exemption that the Indiana statute does not provide. Therefore, the department properly concluded that "idle time" fuel consumption is not excludable from the Motor Fuel Tax. The Court also found that, because IFTA does not govern nonmember jurisdictions, the department was correct in looking to the Indiana statute to determine the credit for taxes paid in nonmember jurisdictions.